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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SERGIO MANZO LUPIAN,

Defendant - Appellant.

No. 04-50028

D.C. No. CR-02-00027-VAP

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted November 8, 2005^{**}

Before: WALLACE, LEAVY, and PAEZ, Circuit Judges.

Sergio Manzo Lupian appeals from the district court's judgment of his conviction and imposition of a 108-month sentence following his guilty plea to conspiracy to distribute listed chemicals knowing or having reasonable cause to

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

believe that they would be used to manufacture methamphetamine, in violation of 21 U.S.C. §§ 841(c)(2) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291.

The court has considered Lupian’s November 3, 2005 “Notice of Withdrawal of Issues Regarding Validity of Plea Agreement.” Lupian’s contentions regarding *United States v. Booker*, 125 S. Ct. 738, 749 (2005), lack merit because Lupian stipulated to the base offense level, and there were no “extra-verdict findings made in a mandatory guidelines system” to invalidate his appeal waiver. *See United States v. Ameline*, 409 F.3d 1073, 1077-79 (9th Cir. 2005). Accordingly, we dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (holding that changes in the law do not render a waiver of appeal involuntary or unknowing).

All pending motions are denied.

DISMISSED.